ST 96-37

Tax Type: SALES TAX

Issue: Exemption From Tax (Charitable or Other Exempt Type)

STATE OF ILLINOIS DEPARTMENT OF REVENUE OFFICE OF ADMINISTRATIVE HEARINGS SPRINGFIELD, ILLINOIS

THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS))
V. TAXPAYER) Docket #) IBT #)
Taxpayer))

RECOMMENDATION FOR DISPOSITION

APPEARANCES

Michael Myers, Esquire of Sorling, Northrup, Hanna, Cullen & Cochran, Ltd., for TAXPAYER

FINDINGS OF FACT

- 1. The purpose of the taxpayer is to purchase, develop, maintain, support and provide decent housing that is affordable to low-income persons (Dept. Gr. Ex. No. 1)
- 2. The taxpayer is a 501(c)(3) federal income tax exempt entity pursuant to Section 501(a) of the Internal Revenue Code. (Dept. Ex. No. 2) (See also correspondence of May 1, 1995 enclosing an IRS letter and made part of this record.)
- 3. The taxpayer has rehabilitated eight rundown slum homes in the "Enos Park" area of Springfield, Illinois, for low-income housing. (Tr. pp. 10, 11)
- 4. Currently, the Low-Income Housing Tax Credit Program financed some houses which will be donated to the taxpayer and operated by it. (Tr. p. 11)
- 5. The taxpayer has generally paid an average of \$10,000.00 or less for each house, and has spent an average of \$90,000.00 to rehabilitate each house.

- 6. Tenants occupying the houses come through the Low-Income Housing Tax
 Credit Program wherein they have to be under 60% of median income. (Tr. p. 17)
- 7. Several tenants are "Section 8" tenants, and under federal law, their rent is subsidized through the Springfield Housing Authority. (Tr. p. 17)

CONCLUSIONS OF LAW

The Illinois Retailers' Occupation Tax Act exempts exclusively charitable organizations (35 **ILCS** 12/1). Administrative Regulation promulgated thereunder state specifically at 86 Ill. Adm. Code 130.2005 (i)(2):

"The Supreme Court has stated that a charitable purpose may refer to almost anything which promotes the well-being of society and which is not forbidden by law; but to qualify as a charity, the purchaser must be organized and operated to benefit an indefinite number of the public. There may be restrictions on the group to be benefited (such as an organization for women, for children, for the aged, etc.), but the service rendered to those eligible for benefits must, nevertheless, in some way relieve the public of a duty which it would have to such beneficiaries or otherwise confer some benefit on the public." (86 Ill. Adm. Code 130.2005 (i)(2))

After a review of the entire record, the taxpayer meets the criteria for tax exemption. Specifically, the taxpayer has proven it is organized for exclusively charitable purposes in rehabilitating abandoned houses for occupation by low-income households. No part of the taxpayer's earnings inure to the benefit of its members, trustees, officers or other private persons pursuant to its Articles of Incorporation. This taxpayer goes beyond mere civic improvement. The record establishes it carries on charitable acts with the object of its bounty being low and moderate income persons and the needy generally.

RECOMMENDATION

It is my recommendation that the taxpayer be granted tax exempt status.

William J. Hogan Administrative Law Judge

Dated_____